

Attorney Docket No.: J3715(C)
Serial No.: 10/550,622
Filed: August 3, 2006
Confirmation No.: 4634

REMARKS

This amendment is offered in a good faith effort to advance to prosecution of the subject application and consolidate the issues for appeal. Entry thereof is respectfully requested.

Claim 1 has been amended to clarify that, exclusive of the pressure sensitive adhesive, the emulsion (i.e., the emulsion of silicone pressure sensitive adhesive and hydrocarbon-containing non-silicone organic solvent in water) is free of organic solvent. It is respectfully submitted that such amendment moots the 35 U.S.C. 112 rejection of claim 1 and the claims depending from same. Claim 18 has been amended to clarify that the silicone pressure sensitive adhesive comprises a polydiorganosiloxane that has been condensed with a silicate resin. See, for example, page 3 line 30 to page 4, line 1 and page 5, lines 1 to 2.

Pursuant to the Office Action of May 29, 2009, claims 1, 3-5, 7, 8, 10, 11, 13, 18 and 19 were rejected under 35 USC 103(a) over Clapp (US 6887859). This rejection is respectfully traversed.

As defined in the subject specification at page 3, line 30 to page 4, line 5, the term "silicone pressure sensitive adhesive" is a material that is permanently tacky at room temperature that comprises a silicone resin and a diorganosiloxane. The specification refers to three classes of materials. One class of materials is a **mixture** of a diorganosiloxane and a silicate resin. A second class of materials is an adhesive that has been prepared by **condensing** a diorganosiloxane and silicate resin. The third class of materials is cross-linked diorganosiloxane/silicate resin pressure sensitive adhesive. Common to all three classes of adhesives is the interaction of

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diorganosiloxane and silicate resin to form a material with tackifying properties.

In the practice of the subject invention, the silicone pressure sensitive adhesive, prior to its incorporation into the subject hair treatment compositions, is mixed with a hydrocarbon-containing non-silicone organic solvent, and the resulting mixture is emulsified in water using one or more surfactants selected from the group consisting of anionic surfactants, non-ionic surfactants, and blends thereof.

The subject inventors have found that in a leave-on styling mousse, solvent selection has a real and critical effect on the styling performance of the pressure sensitive adhesive emulsion. In such applications, emulsions in which the solvent component is a hydrocarbon-containing non-silicone organic solvent have been found to provide better high humidity curl retention than emulsions wherein the solvent component is a silicone solvent. Reference is made to the curl retention data of Example 4 and Comparative Example C discussed in Applicants' prior response. The curl retention data evaluates hair switches that were treated with a test mousse composition, wound on a pegboard and placed in a drying cabinet at 65°C and 10% relative humidity for 3 hours. Prior to removing the curls, the pegboards were left at ambient condition for thirty minutes. The curls were then hung on a panel and placed in a humidity chamber at 30°C **and 90% relative humidity**, a very humid environment. The curls were photographed every five minutes. The digital images generated were converted into grey-scale images then binary form (made up of black and white pixels). The pixel data was used to plot a projection area that served as a measure of the extent to which the switches spread out and lost curl over a period of 1 hour. The projection area was normalized by taking the ratio of the projection area to the average switch projection area calculated for switches treated with the Example 4 composition. The normalized projection data for hair switches treated with the Comparative Example

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C composition shows a significant loss of curl compared to hair switches treated with Example 4. (i.e., a normalized projection area of 1.27 ± 0.13 with the Example 4 data representing a projection area of 1). The Comparative Example C data represents a normalized projection area that is significantly greater than that of Example 1, i.e., the Example 4 components provided substantially greater high humidity control the Comparative Example C. **Thus, choice of solvent in the pressure-sensitive adhesive-containing emulsion** was found to significantly impact the performance of the pressure sensitive adhesive in high humidity applications. That solvent selection so affects styling performance is surprising and unexpected. Moreover, there is nothing in the prior art that discloses or suggests improving the high humidity styling performance of a leave-on styling mousse through the incorporation of pressure sensitive adhesive-containing emulsion formulated as described by the subject claims.

Clapp et al. is directed to the use of pressure sensitive adhesive in body powder formulations to improve the adhesion of the fluid absorbing powders to the skin. The body powder can be aerosolized, but it is not a hair mousse. Additionally, there is nothing in Clapp et al. that discloses or suggests improving the high humidity styling performance of a leave-on hair styling mousse through the incorporation of an emulsion that is a mixture of a silicone pressure sensitive adhesive and a hydrocarbon-containing non-silicone organic solvent, **said mixture having been emulsified in water using one or more surfactants selected from the group consisting of anionic surfactants, non-ionic surfactants, and blends thereof.**

Pursuant to the referenced Office Action, claims 15-77 were rejected under 35 U.S.C. 103(a) over Dhamdhere et al. (US 6787130) in view of Torgerson (US 6165455), which rejection is characterized at page 6 as a provisional non-statutory obviousness-type double patenting rejection. The subject application having been

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assigned to Conopco, Inc. and Dhamdhere et al. having been assigned to Unilever Home & Personal Care USA, division of Conopco, Inc., the subject application and Dhamdhere et al. are commonly owned by Conopco, Inc. It is respectfully submitted that the terminal disclaimer over Dhamdhere et al. that accompanies this submission moots this rejection.

The referenced action also rejected claims 1, 3-5, 7, 8, 10, 11, 13, 18 and 19 were rejected on the ground of non-statutory obviousness-type double patenting over claims 1-6, and 8-11 of co-pending application no. 10/550623. Accompanying this submission is a terminal disclaimer over such co-pending application. The terminal disclaimer is believed to moot this rejection.

In light of the above amendments and remarks, it is respectfully requested that the application be allowed to issue.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney kindly requests the Examiner to telephone at the number provided.

Respectfully submitted,

/Karen E. Klumas/

Karen E. Klumas
Registration No. 31,070
Attorney for Applicant(s)

KEK/sa
(201) 894-2332